NOTICE: This opinion is subject to formal revision before publication in the Board volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Air Tech Services, Inc. and Local No. 9, Plumbers and Pipefitters Association. Case 22–CA–21544

November 30, 1998

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS FOX, HURTGEN, AND BRAME

On March 26, 1997, the National Labor Relations Board issued a Decision and Order, inter alia, ordering Air Tech Services, Inc., to take certain affirmative action including making employee Cortland Leeming, Jr., whole for his loss of earnings and other benefits resulting from his unlawful discharge in violation of the National Labor Relations Act. On June 10, 1997, the Board denied reconsideration of that Order. On December 2, 1997, the United States Court of Appeals for the Third Circuit enforced the Board's Order.

A controversy having arisen over the amount of backpay due that discriminatee, on July 31, 1998, the Regional Director for Region 22 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer in compliance with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated September 2, 1998, the Region advised the Respondent, that no answer to the compliance specification had been received and that unless an appropriate answer was filed by September 9, 1998, summary judgment would be sought. The Respondent filed no answer.

On November 9, 1998, the General Counsel filed with the Board a motion for summary judgment, with exhibits attached. On November 10, 1998, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the motion for summary judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's motion for summary judgment. Accordingly, we conclude that the net backpay due the discriminatee is as stated in the compliance specification and we will order payment by the Respondent of that amount to Cortland Leeming, Jr., plus interest accrued on that amount to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Air Tech Services, Inc., Hamilton, New Jersey, its officers, agents, successors, and assigns, shall make whole the individual named below, by paying him the amounts following his name, plus interest:

Cortland Leeming, Jr. \$4480.71 plus interest Dated, Washington, D.C. November 30, 1998

Sarah M. Fox,	Member
Peter J. Hurtgen,	Member
J. Robert Brame III,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹323 NLRB No. 49 (not included in Board volume).

²323 NLRB No. 203 (not included in Board volume).